

**NATIONAL UNIVERSITY OF LESOTHO**

**FACULTY OF LAW**

**LL.B FINAL EXAMINATIONS**

**L484: JURISPRUDENCE**

**MAY 2018**

**MARKS: 100**

**TIME: 3 HOURS**

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**INSTRUCTIONS:**

1. Answer any **FOUR (4)** questions.
2. Carefully read through all the questions.

### **Question 1**

- (a) Section 2(2) of Penal Code Act of 2010 provides that “[n]o person shall be tried, convicted or punished for an offence other than an offence specified in this Code or in any other written law or statute in force in Lesotho”.

With the aid of the tools of historical jurisprudence, critically discuss codification in general and the aforementioned section in particular.

**15 Marks**

- (b) Section 47(2)(b) of the National Assembly Electoral Act of 2011 directs political parties intending to contest proportional representation elections to submit a list of nominated candidates which shall “arrange the candidates in order of preference from the top to bottom, with a female or male candidate immediately followed by a candidate of the opposite sex”.

With the help of the tools of legal feminism, critically discuss this section.

**10 Marks**

**[25 MARKS]**

### **Question 2**

- (a) With help of relevant examples and authorities, critically discuss the scope of jurisprudence and its relevance to the study of law.

**10 Marks**

- (b) Legal realism is one of the schools of jurisprudence that have placed great pressure on liberalism. However, the extent to which it has shaken the predominance of liberalism is a matter of considerable controversy.

With the help of analogies, critically evaluate the impact of legal realism on legal thought.

**15 Marks**

**[25 MARKS]**

### **Question 3**

John Locke and Thomas Hobbes are two social contractarians who have been very influential in the contemporary understanding of the relationship between the states and individuals. However, their social contracts have sharp contrasts.

With the help of practical examples compare and contrast the social contracts of Hobbes and Locke.

**[25 MARKS]**

### **Question 4**

- (a) The African Charter on Human and Peoples Rights is a manifestation of African jurisprudence. Critically discuss the characteristics distinguishing the Charter from other international human rights instruments.

**15 Marks**

- (b) Lon Fuller is one of the theorists of modern natural law. He has arguably exhumed natural law from being “a dead” theory of law to where it has now regained its rightful place in contemporary jurisprudence. Critically discuss Lon Fuller’s theory of law and how he has saved natural law.

**10 Marks**

**[25 MARKS]**

### **Question 5**

John Austin is one of the most influential theorists of legal positivism. His theories have been very influential not only to his contemporaries but also in modern-day legal thought.

Critically discuss the theory of John Austin and how his theories have been influential in modern-day legal thought.

**[25 MARKS]**



### **Question 6**

Herbert Hart is one of the whirlwinds of contemporary legal thought. He defies the hard and fast walls of duality created by legal positivism and naturalism. At one point his theory of 'rules' makes him look like a positivist. But his critique of the notion of 'sovereignty' which is the linchpin of legal positivism makes him an unconventional positivist. He is indeed a third-path theorist as some analysts observe. His theory has therefore attracted some of the fiercest criticisms in jurisprudence. He has however not taken it lying down. Some of the debates that took jurisprudence by storm in the latter part of the 20<sup>th</sup> century are the debates he had with Lon Fuller and Ronald Dworkin.

In view of the forgoing prelude, critically evaluate:

(a) The Hart-Fuller debate.

**15 Marks**

(b) The Hart-Dworkin debate.

**10 Marks**

**[25 MARKS]**